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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,571	08/05/2003	Mitsuru Kato	240584US0	5443

22850 7590 01/27/2006

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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NILAND, PATRICK DENNIS

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/633,571

Applicant(s)

KATO ET AL.

Examiner

Patrick D. Niland

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. It is unclear what “leather-like” means. The examiner has considered the well established nature of the leather like sheets of the prior art. Synthetic leathers and “pleathers” are well known. The prior art cited in the instant specification is but a small number of such references. Considering the relatively specific nature of the language following the preambular recitation of “leather-like”, it had been the examiner’s position that the term “leather-like” was understood by the skilled artisan in the context of the instant claims due to the combination of both its well established nature in the art (It appears as an undefined adjective listed in the definition of “leather” in Webster’s Ninth Ed. Collegiate Dictionary.) and the fact that it is axiomatic that such terms be interpreted in their broadest reasonable meaning and that meaning would reasonably encompass all of the structures encompassed by the language following the preamble. However, the examiner was mistaken in this opinion. See MPEP 2173.05(b), F. Other Terms, specifically The term “or like material” in the context of the limitation “coke, brick, or like material” was held to render the claim indefinite since it was not clear how the materials other than coke or brick had to resemble the two specified materials to satisfy the limitations of the claim. *Ex parte Caldwell*, 1906 C.D. 58 (Comm’r Pat. 1906).

In the instant situation, it is unclear how the recited sheet is required to be like leather or “leather-like”. There are many properties such as feel, strength, appearance, etc. which characterize leathers. There are also many leathers. It is unclear if all of these properties are required or only some. It is noted that the claims do not recite molecular weights nor very

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specific monomer compositions. Molecular weight is well known (taught in beginner polymer texts) to affect modulus, and thereby most of the other properties of the polymer. This would clearly affect the strength and feel of the sheet. Monomer composition radically affects hardness or softness as evidenced by the Fox Tg equation and definition of Tg. Furthermore, the open nature of the claim language allows additional materials to be present which can affect the sheet in more ways than there are additives encompassed by the open claim language. Thus, there is a material question of how like leather must a given sheet be to satisfy the preamble recitation of "leather-like". This makes the scope of the instant claims unclear.

2. Claims 1-21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Kato et al. and Faust et al. are representative of the closest prior art. Neither suggests the instantly claimed combinations of ingredients and amounts thereof nor that modifying the prior art according to the instant claims would give the results disclosed by the applicant.

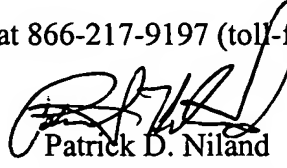
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick D. Niland whose telephone number is 571-272-1121. The examiner can normally be reached on Monday to Thursday from 10 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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Patrick D. Niland  
Primary Examiner  
Art Unit 1714